

**NASD
OFFICE OF HEARING OFFICERS**

Department of Market Regulation

Complainant,

v.

Stephen Ira Golden
(CRD No. 224150)

[REDACTED]

Richard Francis Kresge
(CRD No. 729077)

[REDACTED]

Respondents.

Disciplinary Proceeding
No. 2005000323905

Hearing Officer:

COMPLAINT

Upon information and belief, Complainant, the Department of Market Regulation, alleges as follows:

Summary

1. Respondents Steven Golden and Richard Kresge participated directly as principals in a fraudulent trading scheme involving directed, prearranged, circular, non-bona fide wash purchases and sales of municipal bonds by which the bonds were "parked" repeatedly and the price of the bonds was steadily and artificially increased. By their actions, the Respondents violated Section 10(b) of the Exchange Act, SEC Rule 10b-5 and MSRB Rules G-17 and G-14.

Alternatively, the Respondents aided and abetted the fraudulent scheme to park the bonds and manipulate their price, in violation of MSRB Rule G-17.

Respondents

2. Golden, age 63, was first employed as a registered representative in 1970. In June 1983, Golden formed Golden Harris Capital Group, Inc., (“Golden Harris”) with Steven Harris, with whom he shared ownership of the firm. Golden was the firm’s president and supervised the municipal bond trading desk. He is currently registered at J. B. Hanauer & Co. (“Hanauer”), which purchased Golden Harris in late 2002.

3. Kresge, 48 years old, was sole owner and president of Yankee Financial Group, Inc. (“Yankee”). Since its inception in 1986, the firm engaged primarily in municipal bond trading. The firm filed a Form BDW and Kresge terminated his registration in July 2005 after an NASD Hearing Panel issued a decision barring Kresge in all supervisory capacities, expelling Yankee and ordering Kresge and Yankee to pay \$3.6 million in restitution to ten customers for fraudulent sales practices committed by Yankee brokers in a “boiler room” that operated out of a branch office of Yankee. NASD’s National Adjudicatory Council later upheld the Hearing Panel’s decision and modified it, increasing the sanction against Kresge to a permanent bar in all capacities. Kresge has appealed the decision to the SEC. Kresge remains subject to NASD jurisdiction pursuant to Article V, Section 4 of the NASD By-Laws.

Other Relevant People and Entities

4. Steven Schlesinger is 64 years old and a resident of New York City. First registered in 1978, he was employed as a municipal bond trader at American Third Market Corp. (“American Third”). From January 2000 until December 2004, Schlesinger was employed at Zeus Securities, Inc. (“Zeus”) where he orchestrated the majority of the bond transactions at

issue in this Complaint. He was fired by Zeus in December 2004. On April 25, 2006, he was barred permanently pursuant to a Letter of Acceptance, Waiver and Consent containing findings, which he neither admitted nor denied, that he orchestrated a fraudulent parking and price manipulation scheme, in violation of Section 10(b) of the Exchange Act, SEC Rule 10b-5, and MSRB Rules G-17 and G-14, and that he failed to answer questions truthfully in investigative testimony, in violation of NASD Conduct Rule 2110 and Procedural Rule 8210.

5. William Fleno is 51 years old and a resident of Bridgewater, New Jersey. First registered in 1981, he was employed as a municipal bond trader at Golden Harris from 1992 to 2002, under the direct supervision of Respondent Golden. He was employed at Commerce Capital Markets, Inc. ("CCMI"), a member firm, from December 2003 until he was fired in August 2004 after making a purchase of the municipal bonds that are the subject of this Complaint, in a trade arranged by Schlesinger. On February 22, 2007, he was suspended in all capacities for four months and fined \$5,000 pursuant to a Letter of Acceptance, Waiver and Consent containing findings, which he neither admitted nor denied, that he aided and abetted Schlesinger's fraudulent and manipulative parking scheme, in violation of MSRB Rules G-14 and G-17.

6. CCMI has agreed to a Letter of Acceptance, Waiver and Consent imposing censure and a fine of \$75,000 for violations of MSRB Rule G-27 for failing to provide supervision reasonably designed to achieve compliance with MSRB Rule G-17, which prohibits a firm's brokers from engaging in deceptive and dishonest practices, relating to Fleno's aiding and abetting Schlesinger's scheme on one occasion in July 2004.

Background

The Connector Bonds

7. The Connector 2000 Association, Inc. (“Association”), of Greenville, South Carolina, is a non-profit organization created to finance and operate a 160 mile, four-lane toll road called the “Southern Connector” designed to be part of a southern loop around the city of Greenville. On January 27, 1998, the Association issued bonds to raise funds for the highway. They are unrated, zero coupon, non-investment grade “junk” bonds, subordinate to a previous issue, with a face value of two million dollars and a maturity date of January 1, 2012.

Schlesinger Buys the Connector Bonds and Launches the Scheme

8. On December 30, 1998, Schlesinger, while registered at American Third, purchased the Connector Bonds at a price of \$43.567 for a total cost of \$867,134. He purchased the bonds with the firm’s capital and held them in an American Third proprietary trading account.

9. At American Third, one of Schlesinger’s customers was Olla Industries, a hedge fund operated by an individual named Marc Daniels. Schlesinger was the account executive and had trading authority.

10. Probably because of limitations imposed by Zeus’s net capital requirements, Schlesinger was unable to keep the Connector Bonds in his firm’s trading account. Wishing to retain control over the bonds and therefore unwilling to sell them on the open market, he sold them instead to Olla Industries, with a guarantee to repurchase them within 30 days at a price that would provide Daniels with a profit.

11. Schlesinger first sold the Connector Bonds to Olla Industries on June 29, 1999. This was the beginning of the fraudulent trading scheme he proceeded to orchestrate for the next five years, pre-arranging approximately 123 circular trades. To facilitate the scheme, Schlesinger set

up Delivery Versus Payment (“DVP”) accounts for Olla Industries at Yankee, Golden Harris and Hanauer. Schlesinger directed the transactions, dictating all of the terms of the buys and sells, including price, contra party and settlement date.

12. For example, on August 4, 1999, Schlesinger directed a series of Connector Bond transactions using Olla Industries’ DVP accounts at Golden Harris, Yankee and American Third. With each transaction, he increased the price of the bonds. The first sale he directed was from Olla Industries’ DVP account at Golden Harris to a firm trading account at Golden Harris maintained by Golden. Next, Schlesinger bought the bonds for his inventory account at American Third and sold them to Kresge’s trading account at Yankee, which in turn sold them to Olla Industries, depositing them into Olla’s DVP account at Yankee’s clearing firm. The DVP account delivered the bonds to the underlying Olla Industries account maintained at Spear, Leeds & Kellogg Corporation. In the first transaction in this series, Schlesinger set the price of the bonds at \$44.918; in the final transaction, Schlesinger ticked the price upward to \$44.985.

Schlesinger Continues the Scheme at Zeus

13. In January 2000, Schlesinger left American Third to begin employment at Zeus where he was responsible for broker-to-broker municipal bond transactions. One of the customer accounts that he kept with him after the move was the Olla Industries account. Once registered at Zeus, Schlesinger continued to use that account to orchestrate trades in the Connector Bonds, moving them from the Olla Industries DVP account at Zeus to Olla DVP accounts at Yankee and Golden Harris. He occasionally moved the bonds through other customer accounts managed by him.

14. From the year 2000 through December, 2003, virtually all of the reported trading activity in Connector Bonds was directed by Schlesinger. In the course of the pre-arranged

trading, it appeared that the market price of the bonds was steadily and incrementally increasing. This was an illusion, since Schlesinger set the prices and decided who would buy and who would sell.

15. In late 2003, Sterne, Agee & Leach, Inc. ("SALI"), Zeus' clearing firm, discovered that Schlesinger's trading of the Connector Bonds frequently followed a pattern in which Schlesinger repeatedly purchased the bonds and then sold them but delayed settlements on the sales for 20 to 30 days, in violation of the industry standard and SALI's practice of ordinarily settling within three business days of a trade. For example, SALI noted a Zeus sale of the Connector Bonds on a trade date of October 1, 2003, with settlement set for October 29, 2003. Documentation revealed the trade had been cancelled and rebilled several times, on the instructions of Zeus, pushing back the settlement date. When SALI's managers looked into the matter further, they also discovered that SALI's risk division calculated the actual market price of the Connector Bonds to be far less than the prices shown in the reported trades in which Schlesinger was involved.

16. Because of these findings, SALI notified Zeus that it was imposing a 100% equity requirement upon all Zeus trades in the Connector Bonds and ordered Zeus to meet the margin call. Schlesinger promptly arranged a sale of the bonds to cover the call.

17. These events forced Schlesinger to avoid using his Zeus trading account and the Olla Industries account at Zeus to trade the Connector Bonds and spurred him to seek out additional brokers and firms to park the bonds until he could find a way to repurchase them.

18. In the spring or early summer of 2004, Marc Daniels informed Schlesinger that he was no longer willing to buy and hold the bonds in his Olla Industries accounts. Schlesinger directed Kresge at Yankee to purchase the bonds out of the Olla account but because Kresge could hold

the bonds only briefly, Schlesinger sought out another bond trader, his long-time friend William Fleno at CCMI.

19. On July 21, 2004, Fleno agreed to purchase the bonds into a CCMI proprietary account as a favor to Schlesinger, relying on Schlesinger's promise that within a few days he would buy the bonds back from Fleno. Schlesinger directed Fleno to purchase the bonds from Kresge at Yankee at a price of \$70.32, for a total of \$1,406,400.

20. Because of SALI's restrictions, Schlesinger was unable to utilize Zeus' trading account to purchase the bonds on Zeus' behalf and now had trouble finding another buyer for the bonds. Meanwhile, CCMI's risk department informed Fleno that the bonds may have been worth far less than he paid for them.

21. Fleno, acting on what Schlesinger had told him, wrote a ticket for the sale of the Connector Bonds to Zeus; SALI, however, repeatedly refused to accept the trade, responding to Fleno's submission of the ticket by indicating it "did not know," or "DK'd," the transaction. Schlesinger gave Fleno various untrue explanations for the clearing firm's refusal to accept the trade.

22. On or about August 2, 2004, realizing Schlesinger's excuses were fabrications, Fleno informed his supervisor of the problem. CCMI's management dealt directly with Schlesinger from that point.

23. Schlesinger persuaded William Grimes, a trader at broker's broker W. Ellwood Securities, Inc. ("Ellwood"), to buy the bonds from CCMI with a promise that he would in turn purchase the bonds from Ellwood at a slightly higher price, permitting Ellwood to make a profit on the transaction. At Schlesinger's direction, CCMI sold the bonds to Ellwood at a price of \$70.37.

24. Schlesinger was unable to purchase the Connector Bonds from Ellwood on behalf of Zeus, because SALI would not accept the trade, and Schlesinger apparently was unable to find anyone else to purchase the bonds for him. Ultimately, Ellwood reversed its purchase from CCMI, and in turn CCMI reversed Fleno's purchase from Yankee. The bonds were eventually returned to Yankee's clearing firm which sold them on the market on or about August 30, 2004 at a price of \$18.27, for a total of \$365,400, a loss of approximately \$1,041,960.

CAUSE ONE

Respondents Participated in a Fraudulent Manipulation and Parking Scheme

(Violations of Section 10(b) of the Exchange Act, SEC Rule 10b-5 and MSRB Rules G-17 and G-14)

25. The allegations set forth above are re-alleged and incorporated by reference.

26. The Respondents, in connection with the purchase and sale of the securities known as the Connector Bonds, and by the use of means or instrumentalities of interstate commerce, directly or indirectly, knowingly or recklessly, employed devices, schemes or artifices to defraud and engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person.

27. Specifically, the Respondents knowingly or recklessly participated in a manipulative scheme or engaged in acts, practices or a course of business whose effect was to inflate the price of the Connector Bonds and to create the false appearance of active trading volume in the market in Connector Bonds, by engaging in purchases and sales of Connector Bonds at times and prices with contra parties as directed by Schlesinger in circular, non-bona fide wash transactions. The effect of the transactions was to park the bonds for periods of time so that Schlesinger could retain control of them and artificially increase their market value, as described in this Complaint.

28. By engaging in the prearranged, circular wash trades of the Connector Bonds, the Respondents caused reports of the purchases and sales of the Connector Bonds in which they participated to be distributed or published, under circumstances in which the Respondents had reason to believe, because of the pre-arranged circumstances of the transactions, that they were not bona fide transactions and that the transactions were in furtherance of a fraudulent, deceptive or manipulative purpose.

29. Furthermore, by participating in the prearranged trades in the Connector Bonds, the Respondents engaged in a deceptive, dishonest or unfair practice.

30. By this conduct, Respondents, as principal participants in the fraudulent price manipulation and parking of the Connector Bonds, violated the antifraud provisions of the federal securities laws, specifically Section 10(b) of the Exchange Act and SEC Rule 10b-5 thereunder, as well as the governing MSRB Rules, G-14 and G-17.

**Respondent Golden Knowingly Participated in Approximately 18 Fraudulent,
Manipulative Connector Bond Trades While at Golden Harris**

31. From 1999 through June 2002, in the approximately 18 Connector Bond transactions Schlesinger directed through Golden Harris, Schlesinger spoke and dealt primarily with Golden. On most occasions, the Connector Bonds were purchased by a trading account maintained by Golden. Five of the transactions involved one of Golden's customer accounts which sold the bonds to Golden's trading account. On occasion, however, when Schlesinger called Golden Harris to reach Golden, he spoke with Fleno. On at least one such occasion, Fleno facilitated a pre-arranged Connector Bond trade for Schlesinger, with Golden's knowledge and approval.

32. During this period, Golden was President of Golden Harris, owner of a 50% share of the firm, was in charge of the trading desk and was responsible for reviewing and supervising all municipal bond trading at the firm. In these capacities, Golden was responsible for, supervised

and oversaw the activities of the other municipal bond traders at the firm, including Fleno. In addition, Golden traded municipal and zero coupon bonds for the firm's proprietary accounts.

33. The Golden Harris trades in the Connector Bonds were pre-arranged by Schlesinger and Golden understood their purpose was to park the bonds, fraudulently create the appearance of legitimate market activity and artificially increase their price through the circular trades.

**Respondent Golden Knowingly Engaged in Four Additional Fraudulent, Manipulative
Connector Bond Trades While at Hanauer**

34. In late 2002, Golden and his partner Steven Harris sold Golden Harris to Hanauer. After the sale, Golden remained at Hanauer and traded in municipal bonds. From December 2003 through June 2004, during the period when SALI balked at clearing Schlesinger's Connector trades, Golden purchased and then sold the Connector Bonds on four occasions at Schlesinger's request.

35. The first occasion was in December 2003 and, uniquely, involved a \$300,000 face value piece of Schlesinger's Connector Bonds, rather than the full two million dollar face value amount. To purchase the bonds, Golden was directed by Schlesinger to a broker's broker, with the understanding that Schlesinger would buy the bonds back. Golden purchased the bonds on December 30, 2003, from broker's broker MuniCenter. Golden held the bonds until January 29, 2004, when he sold the bonds at Schlesinger's direction to Yankee with a delayed settlement date of February 17, 2004.

36. Golden's next three Connector transactions involved Schlesinger's entire two million dollar face value amount of Connector Bonds. The second transaction was at the end of March 2004. Schlesinger called Golden to execute a trade claiming he could not do the trade himself. Golden agreed. Schlesinger directed Golden to Yankee and told him the price; Schlesinger mentioned that there might be an extended settlement date for Golden's sale of the

bonds after acquiring them. Without speaking to anyone at Yankee, Golden purchased the bonds from Yankee on March 31, 2004, with a same-day settlement, and sold them immediately to a broker's broker, Wolfe & Hurst Bond Brokers, Inc., ("Wolf") with a settlement date that was extended to April 24.

37. A few days later, on April 27, 2004, Schlesinger called on Golden once more. As before, Schlesinger said he "needed" to do the transaction but was unable to do it because of a "credit line" problem. As a result, Golden purchased the Connector Bonds, again from Yankee, with a same-day settlement. Two days later, a trader at broker's broker Hartfield Titus & Donnelly, LLC, called Golden and said that Schlesinger had directed her to buy the bonds.

38. Earlier in April, Schlesinger had advised Golden to contact Marc Daniels and set up an Olla Industries account at Hanauer. When Golden called Daniels, he learned that Schlesinger had already informed Daniels that Golden was going to open the account. Golden did so. Golden never, however, placed any bond orders with Daniels; the only trade he transacted with Daniels was the next trade directed by Schlesinger in the course of which Golden sold the Connector Bonds to Daniels, using the Hanauer Olla Industries Account.

39. On or about June 15, 2004, Schlesinger again called Golden to request help with the Connector Bonds. Golden hesitated. Schlesinger, sounding desperate, pressed Golden to help him. Golden claimed that because Hanauer was no longer his firm, he would have to obtain permission from his supervisor, Kenneth Meiselman, Hanauer's head trader, whom Schlesinger knew. Golden asked Meiselman if he could "help" Schlesinger with the Connector bonds. Golden failed to inform Meiselman of the previous Connector Bond trades he had transacted for Schlesinger and did not disclose any material facts about Schlesinger directing the trade. Meiselman gave Golden permission on the explicit condition that doing the trade would not

assist Schlesinger to park the bonds. Golden told Meiselman, untruthfully, that he was not parking the bonds but would sell them through a broker. As directed by Schlesinger, Golden purchased the bonds from Zeus on June 15, 2002, at a price of \$70 and sold them to Daniels the following day at \$70.17.

Respondent Kresge Knowingly Participated in Approximately 88 Fraudulent Connector Bond Trades Directed by Schlesinger

40. Respondent Kresge at Yankee was Schlesinger's primary partner in his orchestration and manipulation of the Connector Bonds. From the advent of the scheme through its end, Kresge engaged in approximately 88 separate trades at Schlesinger's direction. In every one of these, Schlesinger told Kresge the price to pay for the bonds, the price at which to sell them, and, thereby, how much he would make on each trade. Kresge and Schlesinger agreed that Kresge would not take a loss on the trades and that Kresge would hold the Connector Bonds only for brief periods of time.

41. In late 1999, Schlesinger opened an account for Olla Industries at Yankee. Thereafter Schlesinger regularly called Kresge to inform him that Olla Industries was buying or selling the Connector Bonds. In "busy" periods, Schlesinger would do so every four to six weeks. Schlesinger directed Kresge to various contra parties. When Kresge called a contra party and asked if the broker was aware of the trade and its terms as related by Schlesinger, the answer was invariably yes. Kresge never received a call from a bond trader expressing interest in the Connector Bonds except when the trade was directed by Schlesinger.

42. In each of the 88 Connector Bond trades he conducted with Kresge over five years, Schlesinger set the terms of the trades: the price, the date and the length of any extended settlement. Kresge described his role as "nothing more than a delivery and receiving agent." Kresge never negotiated a single term of the trades. Despite his lengthy involvement in such a

large number of Connector Bond trades, Kresge did no meaningful investigation into the Connector Bonds.

43. Kresge understood that all executed municipal bond trades were publicly reported and became part of a bond's trade history, relied upon by bond traders seeking information about the market price and volume of trading in a particular bond. Kresge also realized that Schlesinger's directed trading of the Connector Bonds was setting their "market price."

44. Kresge believed, from conversations with Schlesinger, that by trading the bonds so often, Schlesinger was "pegging a price" for the bonds. In fact, Kresge believed from what Schlesinger said that Olla Industries had a significant additional number of Connector Bonds in its portfolio and that Schlesinger's trading had something to do with valuing the Olla portfolio. The way that Schlesinger set the prices on the trades provided Kresge a profit of approximately \$1,000 each time he bought and then sold the bonds.

CAUSE TWO

Alternatively, Respondents Aided and Abetted Schlesinger's Fraudulent Scheme to Park and to Manipulate the Price of the Connector Bonds

(Violations of MSRB Rules G-17 and G-14)

45. The allegations set forth above are re-alleged and incorporated by reference.

46. In the alternative to the allegations set forth above, Respondents, by their participation in Schlesinger's directed sales and purchases of the Connector Bonds, aided and abetted Schlesinger's fraudulent scheme to park and to manipulate the price of the bonds.

47. Schlesinger's orchestration of wash, circular trades of the Connector Bonds with the assistance of the Respondents created the false appearance the bonds were being actively traded. Schlesinger's arbitrary, steady, incremental increases in the prices he set for the wash trades created the false appearance that the Connector Bonds had a market price that was, by the end of

the scheme's life, far higher than the true market value of the bonds. Schlesinger's trading of the Connector Bonds through the Respondents, therefore, constituted primary violations of federal securities laws, specifically Rule 10(b) of the Exchange Act and SEC Rule 10b-5 thereunder, as well as MSRB Rules GS-17 and GS-14.

48. Both of the Respondents substantially assisted Schlesinger in accomplishing his fraudulent manipulative conduct by purchasing and selling the Connector Bonds in non-bona fide trades when Schlesinger asked them to do so, through the contra parties to whom Schlesinger directed them, at the times and prices Schlesinger directed and setting settlement dates at Schlesinger's direction. Their actions substantially assisted Schlesinger to park the Connector Bonds fraudulently to create the appearance of legitimate market activity and to raise the price of the bonds.

49. Both of the Respondents were securities professionals experienced in municipal bond trading when they agreed to Schlesinger's requests to transact the prearranged, circular, non-bona fide wash sales transactions in the Connector Bonds. Because of their experience and because of the circumstances in which Schlesinger directed their trades, the Respondents either knew or were extremely reckless, ignoring blatantly obvious red flags, in not knowing that they were engaging in trades that were not bona fide trades and in conduct that was improper, deceptive and dishonest.

50. By aiding and abetting Schlesinger's manipulative parking scheme, the Respondents assisted Schlesinger in causing reports of the purchases and sales of the Connector Bonds to be distributed or published that Schlesinger knew and the Respondents had reason to believe were in furtherance of a fraudulent, deceptive or manipulative purpose.

51. Furthermore, by aiding and abetting Schlesinger in engaging in the Connector Bond trades, the Respondents assisted Schlesinger in engaging in a deceptive, dishonest or unfair practice.

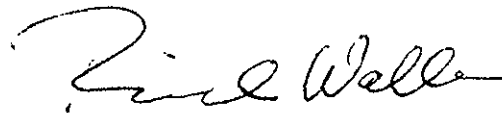
52. By reason of the foregoing conduct, therefore, Respondents violated MSRB Rules G-14 and G-17 by aiding and abetting Schlesinger's fraudulent, illegal and manipulative acts as described in this Complaint.

Request for Relief

WHEREFORE, Complainant respectfully requests:

- A. Findings of fact and conclusions of law that Respondents committed the violations charged and alleged herein;
- B. An order imposing sanctions upon the Respondents in accordance with NASD Rule 8310;
- C. An order requiring Respondents to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest;
- D. An order imposing such costs of any proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330; and
- E. An order imposing any other fitting sanction.

Date: March 22, 2007



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